

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#5
7-8-03
Robert
Election

APPLICANT: MADHU SUDAN ET AL.

) Group Art Unit:
) 2835

SERIAL NUMBER: 10/063,475

) Before the Examiner:
) Anatoly Vortman

FILED: April 26, 2002

FOR: FUSE HOLDER ASSEMBLY

Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

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Response to Restriction Requirement Pursuant to 35 U.S.C. §121

Sir:

This is in response to the Restriction Requirement mailed June 2, 2003.

The Examiner contends that: Group I, Claims 1-10, drawn to a fuse holder, are classified in Class 337, subclasses 211 and 213; and Group II, Claims 11-19, drawn to a fuse system, are classified in Class 361, subclasses 642 and 646.

Pursuant to MPEP § 806.05(c) and 35 U.S.C. §121 the Examiner requires restriction between Groups I, and II.

Accordingly, pursuant to 35 U.S.C. §121, Applicants hereby elect to prosecute Group I (Claims 1-10), with traverse. This election is being made provisionally without prejudice to Applicants' rights with respect to Claims 11-19, Group II, including the right to file divisional applications thereon.

More specifically the Examiner contends that the inventions of group II and of group I are related as combination and subcombination. Inventions in this

relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the Examiner contends that the combination (a fuse system) as claimed does not require the particulars of the subcombination (a fuse holder) as claimed because said fuse system may utilize fuse holders of different design. The Examiner concludes that the subcombination has separate utility such as "fuse holder" and may be utilized in other types of fuse systems.

However, under MPEP § 806.05(c)(II), it is respectfully submitted that if there is no evidence that combination AB_{sp} is patentable without the details of B_{sp}, restriction should not be required. Where the relationship between the claims is such that the separately claimed subcombination B_{sp} constitutes the essential distinguishing feature of the combination AB_{sp} as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility.

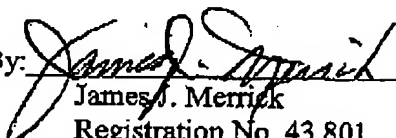
More specifically, independent claim 1 identifies a first cage holder and a second cage holder configured to fit within in said housing, each cage holder of said first and said second cage holders includes either a single pole cage or a plurality of pole cages. Independent claim 11 identifies a single pole cage holder within said first housing, said single pole cage holder including a single pole cage for electrical connection to the first phase, * * * a second housing identical to said first housing, a two-pole cage holder within said second housing, analogous to claim 1. Thus, the relationship between claims 1 and 11 is such that the separately claimed subcombination (i.e., a first cage holder and a second cage holder configured to fit within in said housing) constitutes the essential distinguishing feature of the combination of the fuse system as claimed in claim 11 and is not distinct. Accordingly, a requirement for restriction must not be made.

Furthermore, it is respectfully noted that claim 12 corresponds in scope with claim 1, claim 13 with claim 2, claim 14 with claim 5, claim 14 with claim 6, claim 16 with claim 7, claim 17 with claim 8, claim 18 with claim 9, and claim 19 with claim 10. It is respectfully requested that the restriction requirement be withdrawn for these reasons as well.

If there are any charges with respect to this Restriction Requirement, or otherwise, please charge them to Deposit Account No. 06-1130 maintained by applicants' attorneys.

Respectfully submitted,

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